

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Anne Steckel[asteckel@biodiesel.org]; Larry Schafer[lschafer@biodiesel.org]; Lindsay Fitzgerald[lfitzgerald@biodiesel.org]; Byron Dorgan\* (byron.dorgan@arentfox.com)[byron.dorgan@arentfox.com]  
**From:** Joe Jobe  
**Sent:** Wed 5/28/2014 7:03:31 PM  
**Subject:** NBB meeting with EPA  
McCabe letter 5-24-14 (Final).docx

Dear Janet:

As a follow-up to our meeting last Thursday, please see the attached letter. Thank you,

Joe

Joe Jobe, CEO

National Biodiesel Board

(b) (6)



National Biodiesel Board  
605 Clark Ave.  
PO Box 104898  
Jefferson City, MO 65110-4898  
(800) 841-5849 phone  
(573) 635-7913 fax

National Biodiesel Board  
1331 Pennsylvania Ave., NW  
Suite 512  
Washington, DC 20004  
(202) 737-8801 phone  
[www.biodiesel.org](http://www.biodiesel.org)

May 28, 2014

Janet McCabe  
Acting Assistant Administrator for the Office of Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Dear Assistant Administrator McCabe:

Thank you very much for your time in meeting with us on Thursday. I am writing this letter to follow up on our discussion and to formally request a meeting as soon as possible with Administrator McCarthy. As we reported to you on Thursday, in the six months since the announcement of the proposed rule 57% of our members have halted production. This represents most of our small and medium sized members whose businesses are in jeopardy. While some of our larger producers continue to hang on, our smaller producers are in danger of losing their businesses.

NBB represents both biodiesel and renewable hydrocarbon diesel companies spanning the full biomass-based diesel category. As the one domestic advanced biofuel industry that has demonstrated success and has caused the advanced biofuel category to realize its goals every year of the program, our industry has been harmed the most by 2014 RVO proposed rule. And our industry stands to be harmed the most if the final rule is not changed significantly as it pertains to the biomass-based diesel category.

We have received indications that your agency plans to increase nearly all the categories above what was in the proposed rule, except for the biomass-based diesel category. It is inconceivable to us why EPA would, in response to concerns about the ethanol blend wall, increase volumes of corn and sugarcane ethanol, but not increase biomass-based diesel – the one fuel that can help alleviate the ethanol blend wall by displacing imported Brazilian sugarcane ethanol.

We appreciate your assurance that the rule is not final until the Administrator signs it. However, if our current indications are accurate, it is the intention of EPA to leave the biomass-based diesel (D4) category at 1.28 billion gallons, while modestly increasing conventional biofuel (D6) and total advanced volumes (effectively increasing the D5 volume). While not confirming that this was indeed the agency's decision, you did convey a notion that this scenario should result in biodiesel filling most of the additional D5 volumes as it did in 2013. You seemed to make the argument that all non-cellulosic advanced biofuels should be thrown into the same category to compete with each other for volumes. You also questioned our strong assertions that it was Congress' intent to grow the biomass-based diesel category over time. You pointed out that there was no specific language in the statute requiring EPA to increase the biomass-based diesel category, therefore, Congress must not have meant for it to be

increased. This notion is quite distressing to those of us who were involved in the legislative process that led to the RFS-2.

One of the primary objectives of creating RFS-2 was to create and grow a renewable component in the diesel fuel pool, which the RFS-1 did not do. RFS-1 required obligated parties to add biofuels to the gasoline pool only, and had only one category of biofuel. And while biodiesel and other biofuels were eligible for the program, it was unlikely that any renewable fuels other than ethanol would be used for compliance. It was then-Senator Obama who first proposed amending the RFS-1 a year after it was enacted to create an alternative diesel requirement, in the American Fuels Act of 2006 and reintroduced it in 2007. This proposal eventually became the RFS-2. Here is a video clip of Senator Obama discussing his proposal. <https://www.youtube.com/watch?v=8WEv3KbtN78&feature=youtu.be>

This proposal which became the RFS-2 directly led to the four categories that we have today from the single category in the RFS-1. If Congress had intended all non-cellulosic advanced biofuels to compete against each other for the same volumes, as EPA's approach appears to be headed, Congress could have achieved this much more simply and efficiently by not even having a D4 category and simply combining everything into the D5 category. But they did not do that. They went to great effort and complexity to create the D4 category and develop the criteria (six factors of consideration) of how to sustainably grow the category over time. For that matter, Congress could have been even more efficient than that, by maintaining just one category as it was in the RFS-1 and simply increasing required volume. The fact that they did create the biomass-based diesel category was recognition of the importance of growing the renewable component in the diesel pool.

The establishment of categories was also a recognition of the very different and often changing dynamics between the gasoline and diesel fuel markets. Biodiesel does not participate in the gasoline market just as ethanol does not participate in the diesel fuel market. Therefore, it is flawed to try to pit biodiesel against ethanol and expect them to compete against each other. This would be like trying to have a high-jumper compete against a long-jumper. They are both field athletes but their events are not the same. There are domestic and global market dynamics in the gasoline, diesel fuel, biodiesel, and ethanol markets, as well as changing state and federal policy differences that make the blending economics favorable for one fuel one year, and the another fuel the next. In order to have a stable policy that will allow these different emerging fuels to get established and grow, Congress recognized that they require their own categories. This principle is fundamentally inherent in the structure of the RFS-2.

You asked on Thursday why biomass-based diesel was the only category that did not specifically require EPA to increase it to a certain level each year. The reason is that in 2007 when the law was passed, the biodiesel industry was only about 400 million gallons. One of the original goals for the BBD category being proposed was 2 billion gallons by 2015. <http://grist.org/article/obama-and-lugar-introduce-american-fuels-act/> We were not entirely sure we could get to that level in that timeframe without disrupting other markets. While other groups were advocating that their number be as high as possible, the biodiesel industry wanted to be conservative and responsible to make sure we did not over-promise.



Therefore, we worked with Congress to create a BBD program which ramped up to a billion gallons by 2012, and then allowed EPA to analyze six factors each year thereafter to determine how much we could sustainably grow the program. There is no other reason that Congress would have required EPA to go through this process other than to determine the achievable growth level. It is impossible to say that our request for a modest increase to 1.7 billion is not achievable when we achieved 1.8 billion in 2013.

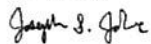
This approach was very well articulated by your agency in the 2013 RVO rulemaking when you increased the volumes from 1 billion gallons to 1.28 billion gallons. Now it appears that the agency may be headed toward not only abandoning that responsible and reasonable approach but possibly even denying Congress' will by reversing the progress of the RFS-2 and trying to make it look like RFS-1.

In our official comments to the proposed rule, we documented extensively the Congressional record which proves conclusively that it was everyone's understanding that the BBD category was to be increased over time. I urge you to please review that portion of our comments.

For further confirmation of the truth of these assertions, you need only ask your boss, President Obama. The RFS-2 was one of Senator Obama's landmark policy successes from his Senate career. I strongly urge you to take this matter to him directly. We are confident that the President would increase the volume as he did in 2013.

For all these reasons, it is imperative that we meet with Administrator McCarthy as soon as possible. It is extremely important that we meet with her to make sure she fully understands the consequences of this decision. Thank you again.

Sincerely,



Joe Jobe

CEO, National Biodiesel Board



**To:** McCarthy, Gina[McCarthy.Gina@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Grundler, Christopher[grundler.christopher@epa.gov]  
**Cc:** EthanolRFA[(b) (6)]; Alex Obuchowski[AObuchowski@ethanolrfa.org]  
**From:** Alex Obuchowski  
**Sent:** Thur 5/1/2014 6:59:17 PM  
**Subject:** API Response Letter  
[APIresponse.pdf](#)

Please see attached letter from Bob Dinneen.

Thanks

**Alex Obuchowski**

Chief Financial Officer

Renewable Fuels Association

425 3rd Street, SW Suite 1150

Washington, DC 20024

Direct: (b) (6)

Main Line: (202) 289-3835

Cell: (b) (6)

Fax: (202) 289-7519

[alex@ethanolrfa.org](mailto:alex@ethanolrfa.org)

[www.ethanolrfa.org](http://www.ethanolrfa.org)

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May 1, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

**RE:** Response to American Petroleum Institute (API) letter (April 29, 2014)

Dear Administrator McCarthy,

On behalf of the Renewable Fuels Association (RFA), I am writing to respond to a misleading letter addressed to you from Mr. Robert L. Greco, III, of the American Petroleum Institute (API). The API letter, dated April 29, 2014, requests that EPA use outdated Energy Information Administration (EIA) projections of 2014 gasoline consumption—rather than the latest available projections—when establishing the final 2014 Renewable Volume Obligations (RVOs). Yet, in other correspondence and comments, API demands that the Agency use the very latest data and projections on cellulosic biofuel production to inform the cellulosic biofuel RVO. The letter also convolutes the statutory requirements related to establishing annual RVOs and cites API-funded analyses that have been thoroughly debunked by experts in government and academia. At its core, the API letter exhibits the highest form of hypocrisy and misdirection.

At the outset, API's letter misconstrues the fact that the Renewable Fuel Standard (RFS) is fundamentally a *volumetric* standard, not a *percentage-based* requirement. In the Energy Independence and Security Act of 2007, Congress set forth the specific volumes of renewable fuels that must be consumed annually. From these statutorily required volumes, as well as projected levels of gasoline and diesel consumption, EPA derives its annual percentage RVOs. The renewable fuel volumes specified by Congress may only be adjusted according to the explicit waiver criteria contained in section 211(o)(7) of the Clean Air Act. API obviously has the RVO-setting process backward, requesting that EPA *start* with an arbitrary renewable volume percentage and work in reverse to establish the commensurate volumetric requirements.

Further, API suggests that the statute requires EPA to use EIA fuel consumption projections from October of the preceding calendar year when setting the final RVOs, even in cases where EPA misses its November 30 deadline for publishing the final RVOs. In reality, the statute is silent as to the date of the EIA fuel consumption projections that should be used by EPA in the event the November 30 deadline is missed. Common sense and the principles of good rulemaking dictate that the final RVOs should be based on the latest available fuel consumption projections from EIA.<sup>1</sup>

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<sup>1</sup> EPA and Office of Management & Budget (OMB) information quality guidance documents recommend that rulemaking activities and supporting analysis be based on the most current available data and information.



Indeed, the 2013 final RVOs published in August 2013 were based on EIA projections from May 2013.<sup>2</sup> It is presumed that these were the most current projections available to the Agency at the time it was completing the final rule for 2013 RVOs. Notably, API did not object to the use of May 2013 EIA projections in the setting of the final 2013 RVOs (probably because the May 2013 EIA data projected *lower* gasoline and diesel consumption than the October 2012 projections, thus requiring lower levels of renewable fuel blending).

Since the inception of the RFS2, EPA has always relied on the most recent EIA projections to set annual RVOs. In the March 2010 final rule for RFS2, EPA clearly stated that “[t]he projected volumes of gasoline and diesel used to calculate the standards will continue to be provided by EIA’s Short-Term Energy Outlook (STEO).”<sup>3</sup> The STEO reports are released monthly, meaning EPA will always rely on the most recent month’s projections of fuel consumption when finalizing the RVOs. API has never objected to this. In fact, API itself relied on the most recent STEO projections when commenting to EPA on the proposed 2014 RVOs. In their comments, API and the American Fuel and Petrochemical Manufacturers (AFPM) provided a recommendation for the 2014 RVO percentage that was based on December 2013 STEO fuel consumption data (i.e., the latest available at the time).<sup>4</sup>

API’s hypocrisy is further underscored by the fact that the organization has repeatedly requested that EPA base its cellulosic biofuel RVO on the most current available production data, not on months-old projections from EIA. According to API and AFPM, “We recommend that EPA set the cellulosic standard at an annualized volume based on the *most recent 3 months* of cellulosic production.”<sup>5</sup> In essence, API wants EPA to arbitrarily use whichever EIA projections work to the refiners’ favor.

Finally, API’s letter again includes references to oil industry-funded studies that have been thoroughly discredited by scientists in government and academia. The Coordinating Research Council (CRC) testing cited by API was found by the Department of Energy (DOE) to be “significantly flawed.” DOE stated that “...the choice of test engines, test cycle, limited fuel selection, and failure criteria of the CRC program resulted in unreliable and incomplete data, which severely limits the utility of the study.”<sup>6</sup> Similarly, prominent Iowa State University (ISU) economists uncovered numerous flaws with the NERA Economic Consulting study referenced by API. The ISU economists wrote, “...the NERA compliance strategy is not feasible unless

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<sup>2</sup> Letter from A. Michael Schaal, EIA, to Christopher Grundler Director, Office of Transportation and Air Quality, EPA, May 8, 2013. Available at [www.regulations.gov](http://www.regulations.gov); EPA-HQ-OAR-2012-0548-0152.

<sup>3</sup> 75 Fed. Reg. 14716 (March 26, 2010)

<sup>4</sup> API and AFPM comments in response to 2014 Standards for the Renewable Fuel Standard Program, Proposed Rule, at 33. January 28, 2014. Available at <http://www.api.org/~media/Files/News/2014/14-January/API-AFPM-2014-RFS-Comments-012814.pdf>

<sup>5</sup> Oil & Gas Journal. API, AFPM urge EPA to consider actual production in biofuel quotas. Available at: <http://www.ogj.com/articles/print/volume-112/issue-2b/general-interest/api-afpm-urge-epa-to-consider-actual-production-in-biofuel-quotas.html> (emphasis added). Feb. 17, 2014.

<sup>6</sup> Davis, Patrick B. May 16, 2012. Getting it Right: Accurate Testing and Assessments Critical to Deploying the Next Generation of Auto Fuels. Available at: <http://energy.gov/articles/getting-it-right-accurate-testing-and-assessments-critical-deploying-next-generation-auto>

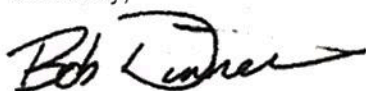


obligated parties formed an illegal cartel to reduce sales to boost prices.”<sup>7</sup> In a separate paper, the economists concluded that “...no company would find it profitable to reduce gasoline sales in the United States...”, which is the primary response of refiners to the RFS assumed in the NERA study.<sup>8</sup>

In closing, we urge you to reject the request from API to use outdated fuel consumption projections when finalizing the 2014 RVOs. We strongly agree with you that EPA should use “the most up-to-date data”<sup>9</sup> on fuel consumption and we believe doing so would be perfectly consistent with previous RVO rulemakings.

Thank you for your consideration of our response to API and please do not hesitate to contact me should you require further information.

Sincerely,



Bob Dinneen  
President & CEO

cc:

The Honorable John Podesta, Counselor to the President  
Howard Shelanski, Administrator, Office of Information and Regulatory Affairs

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<sup>7</sup> Bruce A. Babcock and Sebastien Pouliot, Iowa State University Center for Agricultural and Rural Development, *RFS Compliance: Death Spiral or Investment in E85?*, at 4. (Nov. 2013) Available at <http://www.card.iastate.edu/publications/dbs/pdf/files/13pb16.pdf>.

<sup>8</sup> Bruce A. Babcock, Iowa State University Center for Agricultural and Rural Development, *RFS Compliance Costs and Incentives to Invest in Ethanol Infrastructure*, at 16 (Sept. 2013). Available at [www.card.iastate.edu/policy\\_briefs/display.aspx?id=1191](http://www.card.iastate.edu/policy_briefs/display.aspx?id=1191).

<sup>9</sup> Hagstrom, Jerry. AgWeek. “McCarthy: RFS will reflect most recent data.” April 10, 2014.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Bittleman, Sarah[Sarah.Bittleman@osec.usda.gov]  
**From:** Anne Steckel  
**Sent:** Wed 2/26/2014 9:38:28 PM  
**Subject:** Argentina and Biodiesel  
Final - NBB Letter to EPA on Argentina Biodiesel (11-18).pdf  
Letter to McCarthy - Argentina (2) (Feb 6 2014) (2).pdf

Dear Assistant Administrator McCabe:

Thank you for the call today relating to Argentina and biodiesel.

I hope I effectively conveyed our concerns. The bottom line is if you approve the Argentina application, then up to 600 million gallons of biodiesel will make its way to the U.S. We know this because due to an Argentinian "Differential Export Tax" Program, each gallon of biodiesel from Argentina would enter the United States at prices lower than biodiesel produced in the U.S. These issues are important to the U.S. Industry, and we would like to have further dialogue with you about how to address them.

Attached to this email are two letters we sent to Administrator McCarthy regarding this matter. Before you make a decision, I would urge you to consider our thoughts and comments and convene a meeting between our teams so we can discuss the many ramifications.

The combined pressures of the proposed rule related to the 2014-15 RVOs and the loss of production we are already facing magnifies the impact of every additional decision EPA is making that is related to biodiesel. Along with the Argentina application, also pending is your Quality Assurance Plan proposal and Pathways II Technical amendments that specifically address how EPA intends to address biofuel imports. Clearly the four issues are related.

The discussions your team has undertaken related to the Argentina application without input or discussion with the U.S. biodiesel industry is troubling. This is not a simple application process, nor should it be decided in a vacuum; but rather, a major policy decision that should be discussed with the domestic biodiesel industry, the U.S. Department of Agriculture, the U.S. Department of State, the U.S. Trade Representative and the White House. Additionally, the decision should be made within the context of the pending final rule related to the 2014-15 RVOs for Biomass-based Diesel and the pending final rules on Quality Assurance Plans and Pathways II.

Under the pending application, biodiesel companies from Argentina put forward a "survey plan" that supposedly would give EPA confidence that the companies are meeting the renewable biomass definition without having to map and track the feedstock as required by regulation. The survey plan would seek to establish that the feedstock (in this case soybean oil) actually comes from a field of soybeans grown in Argentina on land that was producing agricultural crops on or before December 19, 2007 (as opposed to soybeans from the United States or Brazil that are often shipped to Argentina to be further processed into meal and oil). The Argentinian biodiesel industry produces up to 1 billion gallons of biodiesel each year and much of that production comes from soybeans that are not grown in Argentina.

We do not believe that any "independent third party" has actually conducted a comprehensive program of annual compliance surveys on any biodiesel facilities or their feedstock suppliers in Argentina. Rather, we believe a plan has been submitted to EPA that outlines a survey program, but that the actual "comprehensive program of annual compliance surveys" has not yet begun. In context of the steps that



EPA is taking to insure that RINs being generated actually meet the requirements of the regulations, at best, it would seem premature for EPA to approve a foreign survey plan that cannot meet the requirements of any of the recently proposed quality assurance plans. This is especially true where EPA has provided the public with little to no guidance on what a survey plan under Section 80.1454(h) would entail.

Thus, we urge you to provide the public with notice and an opportunity to comment on any proposed survey plan for foreign feedstocks and production before EPA takes any action. This is particularly true in light of recent events that may not have been contemplated under the RFS2 proposed rule, and the lack of any meaningful guidance provided to the public as to how EPA might implement a "consortium" approach overseas. We also believe that the implementation and enforcement of the program must be transparent to ensure compliance. The public, in addition to EPA, should be able to monitor compliance. Finally, we outline additional issues that EPA should incorporate into its program prior to approving any such survey plan:

1. EPA Must Give the Public Notice and an Opportunity to Comment on Argentina's Proposal for Alternative Renewable Biomass Tracking.
2. EPA Should Ensure Sufficient Transparency of Any Approved Survey Plan Under Section 80.1454(h).
3. EPA Must Ensure that Any Survey Plan Approved Under Section 80.1454(h) is Designed to Achieve at Least the Same Level of Quality Assurance Required Under the Individual Tracking Program and the Aggregate Compliance Approach.

Additionally, the Argentinian government props up its biodiesel production through a Differential Export Tax (DET) program. Where the export tax that Argentina has historically charged on the raw material (soy oil) has been higher than the tax charged on exports of biodiesel. In other words, Argentinian biodiesel producers are encouraged to ship finished biodiesel rather than raw soybean oil out of the country – and in fact that is what they do. The DET policy in Argentina and the pending application before EPA, if approved, will likely have a devastating impact on U.S. biodiesel producers.

We know this to be true, because in Europe, after approval of Argentinian biodiesel under the European Renewable Energy Directive (RED) Argentinian biodiesel flooded the European marketplace and displaced biodiesel produced in Europe. Only in the last six months have the Europeans been able to take action to stem the volume of imports from Argentina. Specifically, on November 27, 2013, the European Union after a 6-month investigation imposed anti-dumping measures on Argentinian biodiesel producers because biodiesel producers from Argentina were dumping biodiesel into the European marketplace. If the Argentinians were dumping biodiesel into Europe, then if allowed to by the EPA, they will certainly dump the same product into the United States.

In a letter to Administrator McCarthy dated November 13, 2013, (attached) we urged EPA to carefully examine the issues, to issue a public notice for comment, and to exercise restraint on approving the pending CARBIO application at this time. Again, we believe approval of the Argentina application would be against the interest of the US biodiesel industry and urge you to reject the application. If you proceed in considering the application, then we urge you to provide the public the opportunity to comment, particularly in light of EPA's 2014-15 proposal on RVOs.

We would like to meet with you on this important issue.

I look forward to seeing you on Thursday.



Thank you.

Anne

**Anne Steckel**

Vice President, Federal Affairs

National Biodiesel Board

1331 Pennsylvania Ave. NW #505

Washington, DC 20004

O: 202.737.8801

C: (b) (6)



<b>National Biodiesel Board</b> 605 Clark Ave. PO Box 104898 Jefferson City, MO 65110-4898 (800) 841-5849 phone (573) 635-7913 fax	<b>National Biodiesel Board</b> 1331 Pennsylvania Ave., NW Suite 505 Washington, DC 20004 (202) 737-8801 phone <a href="http://www.biodiesel.org">www.biodiesel.org</a>
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November 18, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Re: Application by CARBIO, et. al. on behalf of biodiesel companies from Argentina related to the  
"Alternative Renewable Biomass Tracking Requirement" (40 C.F.R. § 80.1454(h))

Dear Administrator McCarthy:

We hope you are well. Today, we bring to your attention an important matter that if not addressed may allow hundreds of millions of gallons of biodiesel that do not meet any of the renewable biomass requirements of the Renewable Fuels Program (RFS2) to be imported into the United States as early as January 1, 2014.

We understand a number of companies in Argentina, working through their trade association "CARBIO", are requesting the U.S. Environmental Protection Agency (EPA) to approve an "Alternative Renewable Biomass Tracking Requirement" under 40 C.F.R. § 80.1454(h), which, generally, would serve to replace the stringent feedstock recordkeeping requirements of the RFS2 regulations.

We do not believe that any "independent third party" has actually conducted a comprehensive program of annual compliance surveys on any biodiesel facilities or their feedstock suppliers in Argentina. Rather, we believe a plan has been submitted to EPA that outlines a survey program, but that the actual "comprehensive program of annual compliance surveys" has not yet begun. In context of the steps that EPA is taking to insure that RINs being generated actually meet the requirements of the regulations, at best, it would seem premature for EPA to approve a foreign survey plan that cannot meet the requirements of any of the recently proposed quality assurance plans. This is especially true where EPA has provided the public with little to no guidance on what a survey plan under Section 80.1454(h) would entail.

Furthermore, it would seem that any approval under Section 80.1454(h) of a plan by EPA would be premature given that the issue of what constitutes allowable RIN generation is being discussed in two pending rules that have not yet been finalized:

1. The RFS Renewable Identification Number (RIN) Quality Assurance Program; Proposed Rule, 78 Fed. Reg. 12,158 (Feb. 21, 2013), Docket ID No. EPA-HQ-OAR-2012-0621; and
2. Regulation of Fuels and Fuel Additives: RFS Pathways II and Technical Amendments to the RFS2 Standards; Notice of Proposed Rulemaking, 78 Fed. Reg. 36,042 (June 14, 2013), Docket ID No. EPA-HQ-OAR-2012-0401.

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ED\_000313\_O365\_00000029

The National Biodiesel Board has commented on both rules. We support additional assurances that foreign producers of renewable fuel are in compliance with the RFS2, and we support additional provisions to assist EPA in the enforcement of the RFS2 requirements, particularly increasing the bond requirements for foreign production of renewable fuels. We commented at length on how a “quality assurance plan” (Q-A-P) should be applied to foreign biofuel producers. Specifically, we are concerned about the jurisdiction of the EPA and the U.S. Department of Justice in reaching into other countries to enforce the RFS2 program. We asked the question: How does EPA best protect obligated parties and the RFS from fraud or invalid RINs that are illegally or invalidly generated from foreign producers? Of particular difficulty is ensuring that EPA’s restrictions on the types of renewable biomass that can be used are met. These restrictions require a rigorous tracking program. Again, we think this is an important issue for the EPA to get right, as there are currently hundreds of millions and potentially billions of RINs that will likely be generated under the program. An excerpt of our Q-A-P comments is attached.

In light of the current Renewable Volume Obligation discussion being undertaken as a proposed rule by the EPA, there will likely be huge losses in domestic production if the EPA moves to prematurely approve biodiesel from Argentina to qualify for the program based on a survey plan that has not been subject to public review and that does not have the same level of rigor or oversight as the programs in place for domestic producers. Even as we write, the EPA is in the process of proposing the 2014 Renewable Volume Obligations for Biomass-based Diesel. As you know, many believe the proposal will include a meager 1.28 billion gallons for 2014, and perhaps hold it steady in 2015 at the same volume. Due in part to a “Differential Export Tax”<sup>1</sup> in Argentina, which encourages biodiesel exports over soybean exports, the Argentinian Biodiesel industry has the ability to produce and import to the United States more than 900 million gallons of biodiesel annually.

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<sup>1</sup> **Understanding DETs (LMC March 2013 DET Analysis)**

*The Argentine Differential Export Tax on soybean and soybean related products are as follows:*

- Soybeans - 35%
- Soybean Oil – 32%
- Soybean Meal – 32%
- Biodiesel – 17.5%

*DETs are Differential Export Taxes. In Argentina, export taxes are levied on beans as well as soybean products; however, they create an incentive to process soybeans in the country for export. This is done by applying different tax rates on soybeans and the products from crushing which decline with the degree of processing, being higher on beans than on products. DETs the government to change the balance of exports between beans and products away from that balance that would exist in a free market, with a knock on effect on soybean crushers elsewhere in the world.*

*Soybeans can either be used directly as beans, or can be crushed to produce soybean oil and meal. The **crush margin** is the difference between the cost of the beans and the revenue from the meal and oil. This is determined, in turn, by the relative price of the beans compared to the prices of the meal and oil. If the beans become cheaper in relation to products, crushing becomes more profitable and the crush margin increases.*

*This “differential” in the DETs arises because ... soybean exports are taxed at the highest rate in Argentina; this is currently set at 35%. A lower export tax rate of 32% is charged on oil and meal. These differences in the rates of taxation increase the profitability of crushing in Argentina, ... The export tax on biodiesel until very recently was set at a net rate of 17.5% (calculated after deducting a 2.5% tax refund from the nominal export tax of 20%). This provides an incentive to process soybean oil into biodiesel for export.*



According to the Energy Information Administration, already in 2013, we have seen imports from Argentina come to the United States, even though presumably these gallons do not qualify as RIN generating gallons for purposes of the RFS2. In 2013, without biodiesel from Argentina, the United States will import approximately 350 million gallons of biodiesel, of which approximately ½ will qualify for the Biomass-based Diesel program.

In 2014 it is anticipated, without including biodiesel from Argentina, that as much as 400 million gallons of RIN generating biodiesel and renewable diesel may be shipped to the United States.

Given this outlook for 2014, the total volume of imports including biodiesel from Argentina could be as much as 1.3 billion gallons. Potentially, this import volume could be more than the entire 2014 RVO for Biomass-based Diesel (1.28 billion gallons). Clearly, we do not believe this is the program envisioned by Congress or this Administration.

As you consider moving forward on an “Alternative Renewable Biomass Tracking Requirement” under 40 C.F.R. § 80.1454(h), we urge you to consider the greater context of this decision and the ever present impact it will likely have on domestic biodiesel production.

Due to the difficulty in overseeing foreign production and in taking enforcement actions against foreign producers highlighted in the proposed rules noted above, we also have significant concerns regarding the effectiveness of any survey plan that might have been proposed. According to a case study by the Association of American Geographers, Argentina ranks third in soybean production and soybean consumption due to its large cattle industry, and is a leading exporter of soybean oil.<sup>2</sup> Soybean production in Argentina has grown fast in the past few years, and soybean area continues to increase at a rapid pace.<sup>3</sup> The World Bank has noted, with respect to Argentina, that “[a]griculture (including land use change and forestry) is the largest contributor to GHG emissions in the country, while contributing less than 6% of GDP....”<sup>4</sup> The concerns of the National Biodiesel Board are even more pronounced due to the lack of public notice and opportunity to comment that EPA has provided on its “alternative renewable biomass tracking requirement,” as it relates to foreign production.

Thus, we urge you to provide the public with notice and an opportunity to comment on any proposed survey plan for foreign feedstocks and production before EPA takes any action. This is particularly true in light of recent events that may not have been contemplated under the RFS2 proposed rule, and the lack of any meaningful guidance provided to the public as to how EPA might implement a “consortium” approach overseas. We also believe that the implementation and enforcement of the program must be

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<sup>2</sup> Kingsland, M. and Hamilton, M. 2010. Population & Natural Resources case study: How can food production be produced sustainably to feed growing populations? In Solem, M., Klein, P., Muñiz-Solari, O., and Ray, W., eds., AAG Center for Global Geography Education. Available from <http://globalgeography.aag.org>.

<sup>3</sup> Doane Advisory Services, *A Look at Brazil, Argentina soybean sectors*, AG Professional, Mar. 14, 2013, available at <http://www.agprofessional.com/news/A-look-At-Brazil-Argentina-soybean-sectors-197594841.html>. “Over the last seven years [Brazil and Argentina] have added nearly 24 million acres, an amount equal to soybean acreage in Illinois, Iowa and Indiana combined.” *Id.*

<sup>4</sup> World Bank, Latin American and the Caribbean Region: Agriculture and Rural Development Team, *Argentina: Country Note on Climate Change Aspects in Agriculture*, at 2 (Dec. 2009), available at [http://siteresources.worldbank.org/INTLAC/Resources/Climate\\_ArgentinaWeb.pdf](http://siteresources.worldbank.org/INTLAC/Resources/Climate_ArgentinaWeb.pdf)

transparent to ensure compliance. The public, in addition to EPA, should be able to monitor compliance. Finally, we outline additional issues that EPA should consider prior to approving any such survey plan.

I. EPA Must Give the Public Notice and an Opportunity to Comment on Argentina's Proposal for Alternative Renewable Biomass Tracking.

In the proposed RFS2 rule, EPA outlined possible compliance alternatives for "*domestic* renewable fuel." 74 Fed. Reg. 24,904, 24,938-24,940 (May 26, 2009) (emphasis added). One such alternative was to require renewable fuel producers to set up and administer a quality assurance program, creating the possibility of a partial affirmative defense. *Id.* at 24,940. The proposal provided no explanation as to how such a plan might apply to foreign feedstocks, only noting that EPA seeks comment on whether foreign producers should be subject to similar requirements as domestic producers with respect to the renewable biomass requirements.

EPA suggested, for domestic producers, creation of a "consortium" to establish a quality assurance program for the *renewable fuel production supply chain*. 74 Fed. Reg. at 24,940. This alternative was purportedly to be patterned after the survey program administered by the Reformulated Gasoline Survey Association.<sup>5</sup> *Id.* The proposal referenced a "nationwide verification program" carried out by an independent surveyor providing oversight of the feedstock designations and handling processes. *Id.* The survey plan would be required to include a methodology for conducting the surveys, and would be required to be approved by EPA. *Id.* The proposal indicated that this alternative approach was intended to merely provide a partial affirmative defense, and would include a means of addressing potential violations. *Id.* Although EPA sought comment on whether the alternatives proposed for domestic producers should also apply to foreign producers, EPA recognized in the proposed rule that "EISA creates unique challenges related to the implementation and enforcement of the definition of renewable biomass for foreign-produced renewable fuel." *Id.* at 24,941.

The consortium approach finalized in the RFS2 Final Rule under 40 C.F.R. § 80.1454(h) differs in significant ways from the proposal, and, moreover, provides only very broad strokes as to what is to be included in any such plan.<sup>6</sup> Among the significant differences from the proposal is that the final regulation does not require participation by all feedstock producers and handlers in the plan, 74 Fed. Reg. at 24,940, requiring only that the renewable fuel producer "take all reasonable steps to ensure that each feedstock producer, aggregator, distributor or supplier cooperates with this program." 40 C.F.R. § 80.1454(h)(5)(i). It also moved from a "nationwide verification program," 74 Fed. Reg. at 24,940, to a

<sup>5</sup> Under the reformulated gasoline program, a refiner or importer can establish compliance based on an average basis, allowing, for example, use of offsets to meet emissions requirements. Under these surveys, EPA is also able to monitor compliance with testing. EPA provided no indication that the alternative tracking program under the RFS2 program would allow for averaging, and testing cannot be conducted to ensure the feedstock meets the renewable biomass requirements at issue.

<sup>6</sup> The proposal did include a reference to a quality assurance program implemented by producers, outlining some specific elements of such program. 74 Fed. Reg. at 24,939. EPA did not finalize this proposed alternative, noting instead that it was finalizing the option that was "similar to the model of the successful Reformulated Gasoline Survey Association." 75 Fed. Reg. 14,670, 14,700 (Mar. 26, 2010).



plan for an undefined “survey area” and “covered area” or an undefined set of producers. 40 C.F.R. § 80.1454(h). The broad category of issues that are to be included in a survey plan also significantly differs from the regulation providing for a survey program under the reformulated gasoline program, which provides more prescriptive requirements and criteria for approval of the survey plan by EPA. *See* 40 C.F.R. § 80.68; *see also* 40 C.F.R. § 80.1502 (establishing a survey program related to sales of E15). EPA provided no guidance in either the proposal or final rule as to the methodology for the surveys to be conducted. That EPA must approve the survey plan under the RFS2 program does not substitute for EPA’s obligation to provide adequate notice and opportunity to comment or to replace the need for public input.

The approval of a plan constitutes final agency action, which is subject to judicial review under Section 307(b) of the Clean Air Act. 42 U.S.C. § 7607(b). Given the lack of guidance provided by EPA in the proposed and final rules, EPA has not provided adequate public notice or a meaningful opportunity to comment as required under the Act. 42 U.S.C. § 7607(d). Public notice and comment gives the parties affected by a decision an opportunity to participate in the decision-making process. *Donner Hanna Coke Corp. v. Costle*, 464 F. Supp. 1295, 1305 (W.D.N.Y. 1979); *see also Env’tl. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005). The D.C. Circuit has stated that it will defer to an agency “so long as we are assured that its promulgation process as a whole and in each of its major aspects provides a degree of public awareness, understanding, and participation commensurate with the complexity and intrusiveness of the resulting regulations.” *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1028 (D.C. Cir. 1978). Indeed, it was impracticable for parties to provide comment on the implementation of a survey plan and its potential application to Argentina. While the public could comment as to why foreign producers should be subject to more stringent requirements,<sup>7</sup> only by placing the proposal in context does the public have adequate opportunity to address technical, factual and policy concerns with the so-called consortium approach for foreign feedstocks and production. Considering the rapid expansion of soybean area in Argentina and the very recent history of deforestation and land use changes for such production, providing for public comment ensures that EPA has “negate[d] the dangers of arbitrariness and irrationality in the formulation of rules ....” *Id.* (citation omitted). The concerns behind EPA’s recent proposals also indicate that EPA should reassess its consortium approach with respect to feedstock from foreign countries. As such, there are grounds to grant a petition for reconsideration of the consortium approach in general, 42 U.S.C. § 7607(d)(7), and EPA should provide notice and comment on any proposed approval of the request for a consortium approach in Argentina.

Moreover, the regulation itself provides that the survey program is intended to “achieve the level of quality assurance required under” the other renewable biomass provisions. 40 C.F.R. § 80.1454(h). EPA’s regulation for foreign countries seeking an aggregate compliance approach, which was promulgated after the RFS2 Final Rule, provides for a 60-day public comment period. 40 C.F.R. § 80.1457(c). EPA found that public notice and comment on these petitions “is necessary and important,” and that the data and calculations in the petitions should be made available to the public. 75 Fed. Reg. 76,790, 76,823-76,824 (Dec. 9, 2010). EPA provides no explanation why a “consortium”

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<sup>7</sup> *See, e.g.*, NBB Comments at 27, EPA-HQ-OAR-2005-0161-2249.2 (Sept. 25, 2009) (distinguishing countries with declining agricultural land from those with increasing agricultural land).



survey plan for feedstock from foreign countries should escape similar public scrutiny, particularly where the aggregate compliance approach has only been applied in countries where agricultural land is stable or declining, which is simply not the case for Argentina. In addition, EPA is not familiar with agriculture production in foreign countries, and the public could provide invaluable assistance to EPA to ensure that the proposed plan will be effective. Thus, EPA should provide for public notice and comment on survey plans submitted to EPA under 40 C.F.R. § 80.1454(h) to ensure that the survey plan provides the same assurances as the other compliance approaches for the renewable biomass requirements.

Even if EPA somehow believes that the public had ample opportunity to comment, EPA has discretion to provide additional opportunities to ensure “public understanding and participation” in the process. *Weyerhaeuser Co.*, 590 F.2d at 1028 (citations omitted). Given the significant concerns that have arisen with respect to quality assurance programs conducted overseas and with respect to EPA’s ability to enforce the RFS2 requirements, EPA should provide the public with an opportunity to review and comment on any survey plan under consideration by EPA.

II. EPA Should Ensure Sufficient Transparency of Any Approved Survey Plan Under Section 80.1454(h).

EPA should also consider making the plans and results of the audits available to the public on an ongoing basis. In its proposal for a quality assurance program for RIN generation, EPA recognized that the effectiveness of a quality assurance program is positively correlated to the amount of transparency with its implementation.<sup>8</sup> 78 Fed. Reg. at 12,189. EPA found that providing a level of transparency on the auditors and the quality assurance programs being implemented by them would “allow affected stakeholders to notify EPA of concerns or deficiencies in a third-party auditor’s registration or QAP.” *Id.* EPA also found that transparency “will work hand-in-hand with our QAP process to improve the integrity of information submitted for RFS compliance and deters fraudulent behavior.” *Id.* at 12,197. Under the proposal, this transparency is to be provided on an ongoing basis where EPA has proposed requiring annual renewal of an auditor’s registration. *Id.* at 12,189.

Transparency has also been identified as a key component in voluntary certification programs for sustainable production of crops, including soybean. For example, the Roundtable on Responsible Soy Standard for Responsible Soy Production (RTRS) identified a commitment to transparency as necessary for those participating in the certification program, including providing a publicly available summary of information about the performance of each certified organization with respect to each criterion.<sup>9</sup> EPA should provide the public with notice of its proposed determination on the request for a consortium approach for Argentina and give the public an opportunity to comment on the types of information EPA

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<sup>8</sup> Although NBB has concerns with the quality assurance program for RINs as proposed, it does believe that EPA should reconsider its “consortium” approach for renewable biomass from foreign countries based on its proposal and the comments submitted, particularly with respect to EPA’s concerns regarding foreign production of biofuels. NBB respectfully refers EPA to its comments on the February 2013 proposed rule.

<sup>9</sup> RTRS, *RTRS Standard for Responsible Soy Production Version 2.0\_Eng.*, at i, Sept. 16, 2013, available at <http://www.responsiblesoy.org/>.

should provide on an ongoing basis to ensure compliance with the approved plans and with the renewable biomass requirements.

III. EPA Must Ensure that Any Survey Plan Approved Under Section 80.1454(h) is Designed to Achieve at Least the Same Level of Quality Assurance Required Under the Individual Tracking Program and the Aggregate Compliance Approach.

EPA's regulations establish an "alternative renewable biomass tracking requirement" in lieu of the recordkeeping requirements for individual producers under 40 C.F.R. § 80.1454(c)(1) and (d). The regulation requires an independent third party to conduct a comprehensive program of annual compliance surveys to be carried out in accordance with a survey plan approved by EPA. 40 C.F.R. § 80.1454(h)(1). The plan, however, must be "designed to achieve at least the same level of quality assurance required in paragraphs (c)(1), (d) and (g)."<sup>10</sup> 40 C.F.R. § 80.1454(h)(2)(iv). EPA's regulations provide little detail as to what the survey plan must look like except that it must be (1) conducted at renewable fuel production and import facilities and their feedstock suppliers and (2) representative of all renewable fuel producers and importers in the survey area and representative of their feedstock suppliers. 40 C.F.R. § 80.1454(i)(ii), (iii). Although NBB believes that public notice and comment should be provided prior to any determination with respect to any proposed survey plan for Argentina under 40 C.F.R. § 80.1454(h), we provide the following guidance that we believe must be considered as EPA reviews any such plan.

A. Production and import facilities and feedstock suppliers.

Although EPA notes that the survey plan should include production and import facilities and feedstock suppliers, EPA does not adequately define these facilities, particularly with respect to import facilities and feedstock suppliers.

The regulations do not define "import facilities." EPA's regulations include various testing and recordkeeping requirements for imports. *See, e.g.*, 40 C.F.R. § 80.1466. Any survey plan should include a review of these records and inspection of the load port and port of entry.

The regulations also do not define "feedstock suppliers." The feedstock supplier may not be the actual grower of the commodity. EPA recognized as much noting that the producer/importer participating in the alternative tracking program "must take all reasonable steps to ensure that **each feedstock producer, aggregator, distributor, or supplier** cooperates." 40 C.F.R. § 80.1454(h)(5)(i) (emphasis added). Given certain commodities, the feedstock suppliers may be in a central location, such as a crushing facility, accepting feedstock grown on cropland from a very broad area. If the aggregate compliance approach is not available, then we assume that, unlike in the United States and Canada, the total amount of eligible agricultural land is not stable or declining in these areas. As noted above, reports indicate that soybean production in Argentina continues to grow at a rapid pace, hitting a record high for the 2012/2013 crop year. China and the European Union remain significant importers of

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<sup>10</sup> Paragraph (g) relates to the aggregate compliance approach established for planted crops and crop residues in the United States and other countries that petition and obtain such an approach under 40 C.F.R. § 80.1457.



soybean oil from Argentina and soy production is expanding into other parts of Argentina once considered too dry and uneconomical to produce soy.<sup>11</sup> “Argentina has lost 70 percent of its natural forest, much of it in the last 20 years, with increased soy production.”<sup>12</sup>

The proposal should identify the original source of the feedstock and establish requirements to show that, e.g., for crops and crop residue, the feedstock is from “existing agricultural land.” It should also provide a detailed explanation of how the feedstock gets from the original source to the biofuel production facility and then to the importer. In other words, the survey plan should ensure that the eligible feedstock is adequately segregated throughout the supply chain. It is only upon fully understanding the production process from the original source of the feedstock and down the chain that the survey plan can be reviewed and compared to the individual tracking requirements.

The annual surveys would confirm that the fuel is being produced from feedstock from the “existing agricultural lands” of the identified sources. If new growers are included in the survey area, it must show that the new growers similarly meet the requirements. This would provide safeguards to ensure that feedstock from outside these survey areas are not being used.

- B. Representative of all renewable fuel producers and importers in the survey area and representative of their feedstock suppliers.

Although the producers and importers eligible to rely on the survey plan appear limited under EPA’s regulations, EPA makes clear that the survey plan must be representative of all renewable fuel producers and importers in the survey area and their feedstock suppliers. While EPA requires that the survey plan identify the parties covered, the public has not had the opportunity to review and comment on what such a plan might look like for foreign production. The effectiveness of a plan may depend on several factors, including the policies of the country at issue regarding land use, the type of fuel being produced, the type of feedstock being utilized, and the size of the survey area. EPA must ensure the plan clearly defines the survey area and the parties subject to the survey requirements.

As an initial matter, EPA did not provide the public with any parameters as to the “survey area” that can be covered in any such plan. This is unlike the petition process provided for an aggregate compliance approach, which EPA determined must be on a nationwide basis. EPA found that “national level data most accurately reflects the broader effects of renewable fuel feedstock production on land use patterns.” 75 Fed. Reg. at 76,821. EPA’s proposed rule similarly indicated that an industry-wide “consortium” would be on a nationwide level. 74 Fed. Reg. at 24,940. If the survey area is less than the entire nation, it is likely that the country’s policies or land use trends are not similar to those in the United States or Canada. It also would be difficult to determine if there merely have been shifts in land use, resulting in substantial new clearings outside the survey area. In addition, EPA provides no guidance on how the survey plan is to confirm that the lands to be covered met the “existing agricultural land” definition on December 19, 2007. Any evidence indicating that the areas may have been cleared

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<sup>11</sup> Anne Herrberg, *Soy production endangers Argentina*, Deutsche Welle, Mar. 9, 2012, available at <http://www.dw.de/soy-production-endangers-argentina/a-16216304>.

<sup>12</sup> *Id.*



post-2007 should require a careful review of the proposed survey area. The initial identification of these lands must be based, at a minimum, on the types of documentation required for individual tracking. In short, the survey area should be carefully delineated, and the compliance carefully tracked.

EPA similarly did not explain how it would determine that the surveys are “representative” of producers/importers in the survey area and feedstock suppliers. Ensuring that the surveys to be conducted are sufficiently representative of the producers/importers and their suppliers is key to ensuring that this approach will provide at least the same assurances as individual tracking and the aggregate compliance approaches. With the aggregate compliance approach, for example, agricultural lands in the United States and Canada are tracked through extensive and highly reliable surveys conducted by government entities. These surveys have broad coverage, and, more importantly, are subject to strict quality control standards. EPA should ensure that the survey plan includes quality control standards. This is particularly true where, as noted above, it is unclear how far down the chain EPA is going to require the annual surveys to cover.

C. EPA must ensure that the annual compliance surveys are sufficiently rigorous.

EPA’s regulations provide merely broad strokes as to what is expected in a survey plan. This includes: (i) identification of the parties for whom the survey is to be conducted; (ii) identification of the independent surveyor; (iii) a methodology for determining when the audits will be conducted, the audit locations, and the number of audits; and (iv) **any other elements determined to be necessary** to achieve the level of quality assurance required under the individual tracking program and the aggregate compliance approach. 40 C.F.R. § 80.1454(h)(4).

To achieve the level of quality assurance required, the compliance surveys must include audits along the supply chain within the “survey area.” Because EPA cannot inspect or even easily visit other countries, these audits should include on-site visits. Section 80.1454(h) simply refers to audits, and requiring producers ensure cooperation by parties along the supply chain, referring simply to “copies of management plans, product transfer documents, and other records or information.” 40 C.F.R. § 80.1454(h)(5)(i). Simply reviewing documentation at a producer or importer’s facility does not adequately establish that the feedstock came from, e.g., eligible agricultural lands. In the proposed rule for a quality assurance program for RINs, for example, EPA proposed to require on-site visits as part of the audits. 78 Fed. Reg. at 12,192. EPA noted that the goal of these visits is to “verify that plant has the technology to produce, store, and blend biofuels at registered levels, is operating in accordance with the facility’s registration, and that the RINs generated since the last visit are valid.” *Id.* Similarly, site visits along the entire supply chain would better ensure that the feedstock is properly being segregated in a manner consistent with the survey plan and the requirements of the RFS2.

In addition, EPA makes no mention of the use of satellite imagery under the consortium approach. Under the individual tracking and aggregate compliance approaches, EPA is able to obtain mapping and nationwide data to track new clearings of land. Requiring the parties to submit satellite imagery of the surveyed lands and surrounding areas would provide additional assurances that new clearings are not occurring, allowing the surveyors to focus on ensuring the feedstock used came from lands within the

surveyed area. Such mapping, however, should not replace ongoing on-site visits of fields and review of new clearings and agricultural production for that year. But, it could provide the public with added assurances that the plan is effective and that the compliance surveys for Argentina are being conducted properly.

D. NBB is concerned that the surveyor is not truly independent.

Independence of the party conducting the audit (here, surveys) is key to ensuring the integrity of the program. EPA so recognized in its proposed rule for a quality assurance program for RINs, noting that the “first, and perhaps the most important, requirement for auditors is that they remain independent of renewable fuel producers.” 78 Fed. Reg. at 12,187. Ensuring against a conflict of interest is necessary to avoid incentives to promote invalid verification. *Id.* EPA’s regulation for a consortium approach refers to the requirements in 40 C.F.R. § 80.68(c)(13)(i), but that provision refers to independence from the “refiner or importer.” Without a better understanding of the survey plan, it is not clear who the “refiner or importer” is in this situation. There are various parties that can be involved in the production and import of the biofuel, including, e.g., the farmer, the feedstock supplier, the biofuel producer, the exporter, the importer, and the purchaser of the fuel. Moreover, EPA notes that an organization may arrange for the surveys, but does not explain what type of “organization” it is referencing. EPA should protect against any conflict of interest that might influence the “independence” of the surveyor. *For example, it is possible the surveyor or the company responsible for contracting with the surveyor could be the same company that markets or buys and sells the RINs once the biodiesel arrives in United States, which could create substantial financial motivation for all parties participating in that biofuel chain of custody.*

EPA’s regulations also do not provide specific requirements for the independent surveyor’s qualifications. Given the range of facilities being reviewed, the surveying entity must ensure that it has appropriately qualified employees who have experience and knowledge regarding the growing practices within the survey area. For example, there are several bodies that provide certification for sustainable production, such as the RTRS. These bodies provide various core competency requirements that could serve as a model for EPA to ensure the surveyors being hired meet the appropriate qualifications.

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Given the questions left unanswered by the RFS2 Final Rule with respect to its potential application to foreign production, EPA should provide the public with notice and an opportunity to comment on requests for approval of a “consortium” approach under 40 C.F.R. § 80.1454(h). At a minimum, it should provide the public with additional guidance as to the actual content of a survey plan, including an explanation of what constitutes a covered survey area, who are the participants in such a program, what facilities are being audited and what are the elements of such audit, how EPA is ensuring against conflicts of interest, and what methodology must be implemented in determining the number and location of the surveys/audits. Consistent with its proposed approach for quality assurance programs for RINs, EPA should also provide greater transparency on the survey plans and their implementation on an ongoing basis. Due to the concerns that have been raised recently regarding potential fraud and the difficulty in policing activities overseas, EPA must take every precaution to ensure that proposals for a

consortium approach provide the same level of assurance as the individual tracking and aggregate compliance approaches.

While we believe that public notice and comment is required on any proposed survey plan, we would like to meet with you to determine whether EPA is in fact considering a proposal similar to the one described herein – and provide you with additional information on the detrimental impacts it is likely to have on our industry.

To arrange a meeting, please call Kirsten Skala at 202.737.8801 or by email to [KSkala@biodiesel.org](mailto:KSkala@biodiesel.org). We look forward to hearing from you on this important issue.

Sincerely,



Anne Steckel  
Vice President of Federal Affairs  
National Biodiesel Board

cc: The Honorable Tom Vilsack,  
The Honorable Dan Utech



## Attachment

NBB's comments are as follows:

IF IMPORTS OF RENEWABLE FUEL ARE ALLOWED TO CONTINUE TO QUALIFY FOR THE RFS PROGRAM, THEN IT IS IN THE PUBLIC INTEREST FOR EPA TO REQUIRE EVERY GALLON OF IMPORTED FUEL TO HAVE BEEN VALIDATED BY AN ENHANCED AND THE MOST ROBUST QUALITY ASSURANCE PLAN AND TO MEET SPECIFIC BOND REQUIREMENTS THAT AMOUNT TO NO LESS THAN 10% OF THE VALUE OF RENEWABLE FUELS IMPORTED EACH YEAR PER COMPANY.

EPA addresses the imports of biofuels and whether the RINs from foreign producers are valid as a bit of an afterthought. At the core of the RFS program is the requirement that feedstocks sufficiently qualify for the program. The EPA provides specific regulations for the treatment and qualifications of foreign producers at 40 C.F.R. §§ 80.1465, 80.1466 and 80.1467, but once paperwork documents are initially approved by the EPA, it does not require any validation or certification that the renewable biofuel product that arrives in the United States was produced in accordance with the RFS regulation. In order for the RFS to continue to function as intended, then each RIN used for compliance must be valid. Under the program today, it is impossible to determine whether any gallon of imported renewable fuel actually meet any requirements of the program.

NBB proposes that each gallon of imported renewable fuel must be validated through the highest level quality assurance plan, where each gallon produced and each RIN validated must first be approved through a real time monitoring system. In the cases where foreign product is being used to meet the strict requirements of the RFS program, then it is necessary for each foreign biofuel producing company to be continually monitored.

In its proposal EPA did not propose to limit whether purchasers of RINs from imported renewable fuel can also be eligible for the affirmative defense under the Q-A-P and importers can participate under the Q-A-P. EPA requested "comment on the likelihood of such producers participating in the quality assurance program, any difficulties to participating they might encounter, and any issues that could affect the integrity of the proposed program." 78 Fed. Reg. at 12,165. To the extent imports of renewable fuel continue to qualify for the program, NBB is concerned that EPA is unable to adequately oversee foreign entities.

With respect to the verification process, NBB is most concerned with the ability of EPA to accurately verify feedstock used outside of the United States, such as palm oil or palm oil derivatives and soybean oil from Argentina and Brazil used to produce biodiesel. Certain such feedstocks are yet to be approved, and foreign crops (except Canada) are subject to numerous recordkeeping and reporting requirements. High level Q-A-P's should be required to ensure that the renewable fuel generating RINs (i.e., fuel designated as "RFS-FRRF") has been properly segregated as required under 40 C.F.R. § 80.1466(j)(1). The Q-A-P should be required, and the third-party auditor also should ensure that the bond is updated annually and meets the requirements of 40 C.F.R. §§ 80.1466 and 80.1467. EPA should consider additional requirements for such fuels to ensure adequate oversight including increasing the bond required for each company to be no less than 10 percent of the total value of imports each year.

The elements of the proposed Q-A-Ps also do not appear to account for the additional recordkeeping requirements required for foreign renewable fuel producers and foreign RIN owners under 40 C.F.R. §§ 80.1466 and 80.1467. This additional documentation includes, for example, certification each time the renewable fuel is transferred for transport and load port and port of entry testing. This documentation should be required for all imported renewable fuel, regardless of who generates the RIN. EPA should ensure that any approved Q-A-P covers both the foreign renewable fuel producer and the domestic purchaser. The Q-A-P elements as proposed appear to focus on the production process. Thus, EPA should consider imposing additional requirements to review documentation from the foreign producer, the exporter in the foreign country (if different), and the importer itself once the fuel reaches the United States.

In addition, EPA should strengthen the ability to ensure invalid RINs associated with imported fuel are replaced. For example, EPA should consider having the domestic purchaser of the imported fuel be first in line to replace any invalid RIN, regardless of whether the RIN was subsequently transferred. EPA should also consider increasing the bond required for foreign renewable fuel producers and foreign RIN owners. At a minimum, EPA should provide additional information on how it assesses bonds and ensures that the bond is updated annually.

While NBB believes additional regulations may be required for imports of fuel from overseas to ensure compliance with the RFS2 requirements, it also recognizes the ongoing and significant trade that occurs directly across the border, largely as a result of NAFTA. In addition, EPA has approved an aggregate approach for crops from Canada, and EPA has provided for alternative methods for truck imports. See, e.g., 40 C.F.R. § 80.1466(l). NBB agrees that truck and rail imports crossing one land border do not present the same types of difficulties in tracking and enforcement as imports brought in through multiple countries or on vessels from overseas. Thus, the additional requirements proposed by NBB focus on imports from vessels and not on imports brought in on trucks or by rail across the border, and EPA should continue to consider additional flexibilities for imports by truck or rail, which we expect would largely be from Canada.





<b>National Biodiesel Board</b> 605 Clark Ave. PO Box 104898 Jefferson City, MO 65110-4898 (800) 841-5849 phone (573) 635-7913 fax	<b>National Biodiesel Board</b> 1331 Pennsylvania Ave., NW Suite 505 Washington, DC 20004 (202) 737-8801 phone <a href="http://www.biodiesel.org">www.biodiesel.org</a>
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February 6, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Re: Follow up to our letter dated November 13, 2013 regarding the application by CARBIO, et. al. on behalf of biodiesel companies from Argentina related to the "Alternative Renewable Biomass Tracking Requirement" (40 C.F.R. § 80.1454(h))

Dear Administrator McCarthy:

We appreciate your recent comments in a speech to the National Association of State Departments of Agriculture in Reston, Va., where you hinted that the agency is reconsidering its 2014 RVO under the RFS2 program. According to Politico, you said, "I have heard loud and clear that you don't think we hit that right," Given all the feedback, you added, the final rule will be "in a shape that you will see that we have listened to your comments" and will continue to move the biofuels industry forward.

What you may not know is that under your proposal, the biodiesel industry will be hit harder than any other biofuel. Your comments are encouraging because the proposed rule will cut our production nearly in half from our production run rates in 2013. However, it is difficult to interpret just what your words mean, or the degree to which the agency may be reconsidering its proposal.

The combined pressures of the proposed rule related to the 2014-15 RVOs and the loss of production we are already facing magnifies the impact of every additional decision EPA is making that is related to biodiesel. Specifically, pending at EPA is an application from producers in Argentina that, if approved, would allow at least hundreds of millions of new gallons of imported biodiesel to come to the United States – these gallons would displace domestic biodiesel production. Also pending is your Quality Assurance Plan proposal and Pathways II Technical amendments that specifically address how EPA intends to address biofuel imports. Clearly the four issues are related.

We are concerned about every decision EPA makes that will negatively impact the domestic biodiesel industry and the decision on Argentina is one of those decisions. The discussions your team has undertaken related to the Argentina application without any input or discussion with the U.S. biodiesel industry is troubling. This is not a simple application process, nor should it be decided in a vacuum; but rather, a major policy decision that should be discussed with the domestic biodiesel industry, the U.S. Department of Agriculture, the U.S. Department of State, the U.S. Trade Representative and the White House. Additionally, the decision should be made within the context of the pending final rule related to the 2014-15 RVOs for Biomass-based Diesel and the pending final rules on Quality Assurance Plans and Pathways II.

Energy security and domestic jobs are two central goals often highlighted under the Energy Independence and Security Act of 2007 (EISA) and the RFS. As we have stated many times, the U.S. domestic biodiesel industry has the capacity and feedstocks available to produce dramatically more biodiesel than is used by the U.S. marketplace or that has been required under the RFS. For the past year we have encouraged EPA to incorporate into its annual RVO analysis a discussion related to imported volumes. Nevertheless, EPA's Notice of Proposed Rule Making

Page 1 of 2



(NPRM) related to 2014 -15 RVO's proposal did not consider the potential for biodiesel from Argentina to enter the market. Given EPA's proposed biomass-based diesel volume of 1.28 billion gallons for both 2014 and 2015 , if EPA were to add additional foreign capacity to an already overfull domestic U.S. marketplace then domestic biodiesel producers would be further disadvantaged. In 2013, according to EMTS data, and without Argentina production qualifying, biomass-based diesel importers already generated more than 400 million RIN gallons.

Under the pending application, biodiesel companies from Argentina put forward a "survey plan" that supposedly would give EPA confidence that the companies are meeting the renewable biomass definition without having to map and track the feedstock as required by regulation. The survey plan would seek to establish that the feedstock (in this case soybean oil) actually comes from a field of soybeans grown in Argentina on land that was producing agricultural crops on or before December 19, 2007 (as opposed to soybeans from the United States or Brazil that are often shipped to Argentina to be further processed into meal and oil). The Argentinian biodiesel industry produces up to 1 billion gallons of biodiesel each year and much of that production comes from soybeans that are not grown in Argentina. Additionally, the Argentinian government props up its biodiesel production through a Differential Export Tax (DET) program. Where the export tax that Argentina has historically charged on the raw material (soy oil) has been higher than the tax charged on exports of biodiesel. In other words, Argentinian biodiesel producers are encouraged to ship finished biodiesel rather than raw soybean oil out of the country – and in fact that is what they do. The DET policy in Argentina and the pending application before EPA, if approved, will likely have a devastating impact on U.S. biodiesel producers. If the pending application from CARBIO is approved, then biodiesel from Argentina would make its way to the United States in volumes of at least 300-600 million gallons each year (which is the excess capacity of biodiesel not used in Argentina). This production will adversely affect domestic producers.

We know this to be true, because in Europe, after approval of Argentinian biodiesel under the European Renewable Energy Directive (RED) Argentinian biodiesel flooded the European marketplace and displaced biodiesel produced in Europe. Only in the last six months have the Europeans been able to take action to stem the volume of imports from Argentina. Specifically, on November 27, 2013, the European Union after a 6 -month investigation imposed anti-dumping measures on Argentinian biodiesel producers because biodiesel producers from Argentina were dumping biodiesel into the European marketplace. If the Argentinians were dumping biodiesel into Europe, then if allowed to by the EPA , they will certainly dump the same product into the United States.

In a letter to you dated November 13, 2013, we urged EPA to carefully examine the issues, to issue a public notice for comment, and to exercise restraint on approving the pending CARBIO application at this time. Again, we believe approval of the Argentina application would be against the interest of the US biodiesel industry and urge you to reject the application. If you proceed in considering the application, then we urge you to provide the public the opportunity to comment, particularly in light of EPA's 2014-15 proposal on RVOs.

We would like to meet with you on this important issue. To arrange a meeting, please call Kirsten Skala at 202.737.8801 or by email to KSkala@biodiesel.org.

Sincerely,



Anne Steckel  
Vice President of Federal Affairs , National Biodiesel Board

cc: The Honorable Tom Vilsack,  
The Honorable Dan Utech  
The Honorable Michael Froman  
The Honorable John Kerry

To: McCabe, Janet[McCabe.Janet@epa.gov]; 'rminsk (b) (6)  
Deputy Administrator[62Perciasepe.Bob73@epa.gov]  
From: David Marchick  
Sent: Tue 2/25/2014 12:11:46 PM  
Subject: Fw: OPIS End of Day Ethanol Assessment Report

Unfortunately RINS still elevated.

Dave

----- Original Message -----

From: SCARGLE, THOMAS J [mailto:THOMAS.SCARGLE@pes-companies.com]  
Sent: Tuesday, February 25, 2014 07:07 AM  
To: David Marchick; RINALDI, PHILIP L <PHILIP.RINALDI@pes-companies.com>  
Subject: FW: OPIS End of Day Ethanol Assessment Report

fyi

-----Original Message-----

From: opisethanol@opisnet.com [mailto:opisethanol@opisnet.com]  
Sent: Monday, February 24, 2014 5:43 PM  
To: OPIS Ethanol Updates  
Subject: OPIS End of Day Ethanol Assessment Report

#### SPOT ETHANOL ASSESSMENT

	LOW	HIGH	AVG
Chicago	\$2.0550	\$2.1350	\$2.0950
Chicago Rule 11	\$2.6500	\$2.6900	\$2.6700
Chicago Dead Prompt	\$2.0700	\$2.1500	\$2.1100
New York	\$2.8900	\$2.9700	\$2.9300
New York ITT	\$2.9200	\$2.9700	\$2.9450
Gulf Coast	\$2.6400	\$2.7300	\$2.6850
Dallas	\$2.5400	\$2.6000	\$2.5700
Tampa	\$2.6400	\$2.6900	\$2.6650
Phoenix	\$2.6000	\$2.6500	\$2.6250
Nebraska	\$2.3400	\$2.4200	\$2.3800
Pac NW (1-5 days)	\$2.6000	\$2.6500	\$2.6250
S.F. (90.1 1-5 days)	\$2.6300	\$2.6800	\$2.6550
L.A. (90.1 1-5 days)	\$2.6300	\$2.6800	\$2.6550
L.A. (90.1 6-15 days)	\$2.6000	\$2.6600	\$2.6300

#### SPOT SME BIODIESEL ASSESSMENT

	LOW	HIGH	AVG
Chicago	\$3.3500	\$3.5300	\$3.4400
Gulf Coast	\$3.6000	\$3.7000	\$3.6500
New York	\$3.6500	\$3.7500	\$3.7000

#### ETHANOL RIN CREDITS

	LOW	HIGH	AVG
2012	\$0.5500	\$0.5800	\$0.5650
2013	\$0.5700	\$0.5800	\$0.5750
2014	\$0.5400	\$0.5550	\$0.5475

#### CELLULOSIC RIN CREDITS (EPA Waiver Calculation)

	LOW	HIGH	AVG
--	-----	------	-----

2012	\$0.7700-\$0.7900	\$0.7800
2013	\$0.4150-\$0.4250	\$0.4200

#### BIODIESEL RIN CREDITS

	LOW	HIGH	AVG
2012	\$0.5600-\$0.5700	\$0.5650	
2013	\$0.5700-\$0.5800	\$0.5750	
2014	\$0.6000-\$0.6200	\$0.6100	

#### ADVANCED BIOFUEL RIN CREDITS

	LOW	HIGH	AVG
2012	\$0.5600-\$0.5700	\$0.5650	
2013	\$0.5700-\$0.5800	\$0.5750	
2014	\$0.5900-\$0.6100	\$0.6000	

#### CALIF. LOW CARBON FUEL STANDARD

	LOW	HIGH	AVG
Carbon Credit (\$/MT)	\$43.000-\$47.000	\$45.000	
Carbon Intensity Pts (\$/Cl)	\$0.0035-\$0.0038	\$0.0037	
Carbon CPG Gasoline (\$/gal)	\$0.0063-\$0.0069	\$0.0066	
Carbon CPG Diesel (\$/gal)	\$0.0057-\$0.0062	\$0.0059	

Note: Market commentary for the above spot assessments will follow this e-mail shortly. The assessment values shown above are final for the day.

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You are currently subscribed to opisethanol as: Thomas.Scargle@pes-companies.com.  
To unsubscribe, please send your request via email to opissales@ucg.com To find out more about OPIS visit us @ <http://www.opisnet.com>

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Atkinson, Emily[Atkinson.Emily@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Anne Steckel  
**Sent:** Fri 2/7/2014 9:13:17 PM  
**Subject:** Meeting Request from the National Biodiesel Board

Subject: Meeting Request from the National Biodiesel Board

Dear Acting Assistant Administrator McCabe:

Last week the National Biodiesel Board filed comments on EPA's NPRM. Our comments with attachments were over 400 pages. Additionally, we last met with you on November 18, 2013, just after the NPRM was finalized. As a follow up to that meeting, and to give you an opportunity to hear from some of our members directly, we would like to schedule a meeting with you and your team during the week of February 24, 2014.

In our comments we specifically requested the following:

1. 2014 RVO for Biomass-based Diesel of at least 1.7 billion gallons
2. 2015 RVO for Biomass-based Diesel of at least 2.1 billion gallons
3. 2014 RVO for Advanced Biofuels at the statutory level of 3.75 billion gallons (ethanol equivalent gallons)

We also provided a pathway forward for EPA to meet these targets within the context of the six statutory factors that EPA is required to consider -- and in a way that provides flexibility for obligated parties, which is a new factor introduced by EPA as part of the NPRM.

On Monday of this week, EPA Administrator Gina McCarthy, regarding the pending RFS volume proposal. As reported by Politico, McCarthy, in a speech to the National Association of State Departments of Agriculture in Reston, Va., hinted that the agency is reconsidering its proposal given the comments it has received. "I have heard loud and clear that you don't think we hit that right," McCarthy told the group, according to Politico. Given all the feedback, she added, the final rule will be "in a shape that you will see that we have listened to your comments" and will continue to move the biofuels industry forward.

We anticipate this means that there is a great deal of hard work left to do to arrive at the appropriate volume requirements and we want to help you and your team better understand the impacts on the Biomass-based Diesel sector.

My telephone number is (b) (6) and my email address is [asteckel@biodiesel.org](mailto:asteckel@biodiesel.org) -- please contact me at your convenience to arrange the meeting.

Thank you.

Anne

**Anne Steckel**

Vice President, Federal Affairs

National Biodiesel Board

1331 Pennsylvania Ave. NW #505

Washington, DC 20004

O: 202.737.8801

C: (b) (6)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Deputy Administrator[62Perciaspe.Bob73@epa.gov]; Ron Minsk (b) (6)  
**From:** David Marchick  
**Sent:** Thur 2/6/2014 2:55:20 AM  
**Subject:** Re: RINS jumped to \$.55 today

There was an OPIS story - big email alert quoting someone at EPA saying "Spring to summer" for the rule and concluding that this is a major delay. That one story has upended markets. If EPA clarifies with the same reporter and says "spring" not "summer" markets will calm. Spring goes until June 20; summer until Sept. Traders are now buying and hoarding driving prices up.

Dave

Sent from my iPad

On Feb 5, 2014, at 9:48 PM, "McCabe, Janet" <McCabe.Janet@epa.gov> wrote:

It's a mystery to me where the notion of a potential delay comes from....

**From:** Deputy Administrator  
**Sent:** Wednesday, February 05, 2014 6:35 PM  
**To:** David Marchick; Ron Minsk; McCabe, Janet  
**Subject:** Re: RINS jumped to \$.55 today

Hi David

Janet and I met with about a dozen folks from the refining world yesterday. Jack Gerard was with them

We were clear we are working to get the work done in the spring.

Bob  
Deputy Administrator  
(b) (6) (c)  
202 564 4711 (o)



**From:** David Marchick

**Sent:** Wednesday, February 5, 2014 3:23 PM

**To:** Deputy Administrator; Ron Minsk; McCabe, Janet

**Subject:** RINS jumped to \$.55 today

They were \$.25 - \$.30 before the report on the potential EPA delay.

Sent from my iPad

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To: David Marchick[David.Marchick@carlyle.com]; Ron Minsk[(b) (6)]  
McCabe, Janet[McCabe.Janet@epa.gov]  
From: Deputy Administrator  
Sent: Wed 2/5/2014 11:34:54 PM  
Subject: Re: RINS jumped to \$.55 today

Hi David

Janet and I met with about a dozen folks from the refining world yesterday. Jack Gerard was with them

We were clear we are working to get the work done in the spring.

Bob  
Deputy Administrator  
(b) (6) (c)  
202 564 4711 (o)

They were \$.25 - \$.30 before the report on the potential EPA delay.

Sent from my iPad

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To: Minsk, Ron (b) (6) Deputy  
Administrator[62Perciasepe.Bob73@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
From: David Marchick  
Sent: Tue 2/4/2014 9:11:42 PM  
Subject: OPIS on timing

Helpful report re: timing. Not as strong as the previous headline that the rule would be delayed, but this is nonetheless helpful.

Thank you.

Dave

2014-02-04 03:15:13 EST

### **EPA Chief: RFS Review to Take at Least a Few Months**

EPA Administrator Gina McCarthy expects the agency to take at least a few months to finalize the 2014 renewable fuel standard (RFS2) rule, she told an agriculture conference on Monday.

McCarthy made the comments at the National Association of State Departments of Agriculture's conference in Reston, Va., according to a source familiar with the remarks.

EPA did not respond to requests for comment on McCarthy's remarks.

As OPIS reported last week, EPA plans to finalize its 2014 RFS by this summer. The agency previously said it planned to issue a final rule by the spring, however EPA doesn't believe there is any delay. EPA's "timing has not changed and the goal remains the same as we stated at proposal," the agency told OPIS late last week.

On Jan. 28, EPA completed a 60-day public comment period of its 2014 RFS proposal, which calls for nearly across-the-board reductions to the biofuel targets. The agency received well over 16,000 comments on the proposal.

There has been no indication whether EPA plans to make any changes to its proposal, including any increases to the biofuel targets.

--Rachel Gantz, [rgantz@opisnet.com](mailto:rgantz@opisnet.com)

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David Marchick  
Managing Director  
The Carlyle Group  
1001 Pennsylvania Avenue

Washington, DC 20004  
202-729-5903 (phone and fax)

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**To:** Herckis, Arian[Herckis.Arian@epa.gov]  
**Cc:** Kukla, Alison[Kukla.Alison@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Brooke Coleman  
**Sent:** Wed 1/22/2014 9:11:56 PM  
**Subject:** re: Advanced Biofuels Meeting  
AEC\_meetingrequest\_EPA.PDF

Ms. Herckis and Ms. Kukla,

Please find attached a meeting request I submitted at the beginning of the month. I have a group of executives in town on January 29<sup>th</sup> and they are eager to talk to EPA about the 2014 proposed RVO. This is a very serious matter for our industry and we are looking forward to coming in to discuss some reasonable points of resolution. I have been told that the Administrator might not be available, or may only be available for a drop in, and that Ass. Admin. McCabe might be interested in discussing the matter. This would be great and we would very much enjoy meeting with her. We have a meeting at 2 pm that we likely cannot move. The ideal time for us would be, perhaps, 3:30 or 4. But we would try to make any other time work. I would like to be able to tell my executives something soon for travel purposes. Thank you very much. Sincerely, -Brooke

R. Brooke Coleman

Executive Director

**Advanced Ethanol Council (AEC)**

[www.AdvancedEthanol.org](http://www.AdvancedEthanol.org)

(b) (6) (m)



January 6, 2014

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20004

RE: Renewable Fuel Standard/2014 RVO

Dear Administrator McCarthy,

We are writing to request a meeting with you and your staff to discuss the latest developments in our industry with regard to the Renewable Fuel Standard (RFS) and the proposed 2014 Required Volume Obligation (RVO).

As you know, our industry is in the process of commercializing next generation biofuel production technologies to meet the requirements of the RFS. As a whole, the cellulosic biofuels industry has billions of dollars of investments that will be affected directly by the final 2014 RVO. The first wave of cellulosic biofuel plants are now online or are in the process of being started up. This is a tremendous accomplishment during very difficult fiscal times. Our ability to continue building out the industry hinges not only on the maintenance of the program in general, but also by virtue of the delicate balance that exists between how the program is administered and how RIN and investment markets respond to these administrative decisions. With so much at stake, we feel it is important to discuss some of these issues directly with you.

Executives representing the large majority of our membership are visiting Washington, DC on January 29<sup>th</sup>. We would very much appreciate some time with you on or around that date, if you are available.

We very much appreciate your support for our industry to date, and we look forward to working with you as we move forward on the RFS.

Sincerely,

R. Brooke Coleman  
Executive Director  
Advanced Ethanol Council (AEC)  
857.719.9766

[www.AdvancedEthanol.org](http://www.AdvancedEthanol.org)

ED\_000313\_O365\_00000038

To: McCabe, Janet[McCabe.Janet@epa.gov]; Minsk, Ron  
(b) (6)  
Cc: Deputy Administrator[62Perciasepe.Bob73@epa.gov]  
From: David Marchick  
Sent: Thur 12/5/2013 7:09:17 PM  
Subject: Call next week  
Q4 2013 D6 RINs.pptx

Janet/Ron –

Hope you are well. As you can see in the attached graph, RINS prices have really jumped up. Would you be free next week (maybe Tuesday?) for a call for our folks to give you a sense of what is happening in the market?

Sharing with Bob as an FYI.

Thanks,

Dave

David Marchick  
Managing Director  
The Carlyle Group  
1001 Pennsylvania Avenue  
Washington, DC 20004  
202-729-5903 (phone and fax)

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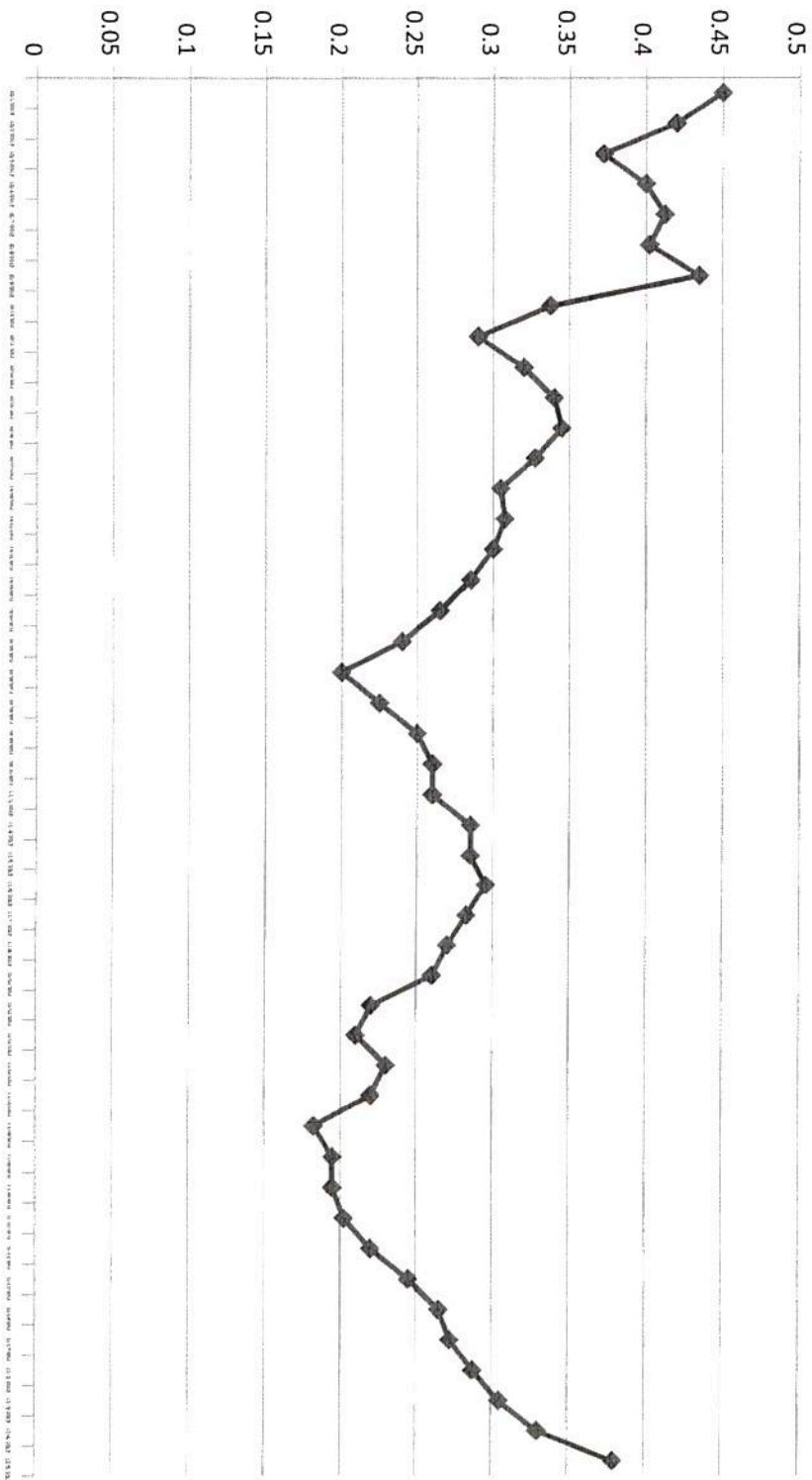
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# Q4 2013 D6 RINS



10/1/13 - 12/5/13 D6 Prices